REMARKS

I. INTRODUCTION

Claims 13-21 have been cancelled. Claims 1-12 and 22-29 remain pending. Claims 22 and 29 have been amended to further point out and distinctly claim that which is the subject matter of the present invention. No new matter added has been added. In view of the above amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable.

II. THE 35 U.S.C. § 103(a) REJECTIONS SHOULD BE WITHDRAWN

The Examiner has rejected claims 1-8 under 35 U.S.C. § 103(a) as unpatentable over U.S. Pat. No. 5,642,485 to Deaton et al. ("the Deaton patent") in view of U.S. Pat. No. 6,009,411 to Kepecs ("the Kepecs patent") and U.S. Pat. No. 5,025,372 to Burton et al. ("the Burton patent"). (See 4/26/04 Office Action, para. 3, page 2).

The Deaton patent describes a method for building a customer database at a retail store using an automatic check reader at the point-of-sale "or another suitable location within the store." (See the Deaton patent, col. 59, lines 6-12). An entry in the database is created the first time the customer's check is passed through the automatic check reader. (See the Deaton patent, col. 59, lines 18-28). On subsequent transactions, the database will recognize the customer and begin to store data related to the frequency of transactions, amount of transactions and customer address. (See the Deaton patent, col. 59, lines 54-58). The database is housed in a host processor, which is connected to the automatic check reader. (See the Deaton patent, col. 59, lines 18-21). The method of the Deaton patent is directed to use in a single retail store, and to build a database of customers for that singular location.

The Kepecs patent describes a method for distributing and redeeming electronic promotions to a consumer through the Internet. (See the Kepecs patent, Abstract). Each individual store within a store chain has several store computers connected to cash registers. (See the Kepecs patent, col. 5, 1-4). The store computers are networked with an in-store master computer that houses a customer database and feeds pricing information to all the store computers. (See the Kepecs patent, col. 5, 5-10). Because the master computers of each store within the store chain are privately networked, customers can travel between store locations and be recognized by the database, which will present discounts and other promotions based on previous purchases at the point-of-sale. (See the Kepecs patent, col. 7, lines 61-65; col. 8, lines 47-56). However, the method of the Kepecs patent relates only to a one-company chain of stores, whereby the customer is not presented with discounts when shopping outside of that chain.

The Burton patent describes computer data processing, programming and printing for an improved incentive award program which allocates monetary amounts available for expenditure through credit instruments issued to program participants when the participants perform to a designated level of achievement. (See the Burton patent, Abstract). The credit instrument is issued by a financial institution, such as a bank, and is tied to a specific sponsor, such as a supplier of goods or services. (See the Burton patent, col. 4, lines 31-38). The sponsor contracts with an incentive company that administers the incentive award program, whereby transactions using the credit instrument to purchase the sponsor's goods/services earn award points which will reduce the credit account balance or be used to obtain reward merchandise from the sponsor's incentive company. (See the Burton patent, col. 4, lines 50-62; col. 5, lines 12-16).

Claim 1 of the present application recites a method for storing and retrieving consumer-transaction information, wherein the method includes the step of "applying captured said transaction information to a second transaction involving said consumer at a second merchant not required to be associated with said first merchant." In this manner, the consumer is recognized at any merchant location, and all relevant transaction information is recorded and applied to subsequent transactions. Also, based on the consumer's transaction record (e.g., frequency, amount, product), marketing and promotional offers can be more effectively targeted to the consumer. As the Examiner has recognized, the Deaton patent and the Kepecs patent taken in combination lack the disclosure of "applying captured said transaction information at *the second merchant not required to be associated with said first merchant.*" (See 4/26/2004 Office Action, para. 3, page 4). The Examiner attempts to cure this deficiency by suggesting that the Burton patent discloses this element, and taken in combination with the Deaton patent and the Kepecs patent, renders the subject matter of claim 1 obvious.

The Burton patent does not disclose or suggest "applying captured said transaction information at the second merchant not required to be associated with said first merchant." According to the Burton patent, a sponsor (seller of goods/services) contracts with an incentive company to administer the sponsor's incentive program. (See the Burton patent, col. 4, lines 59-

62). Participants in the program may be issued a credit instrument with the sponsor's tradename thereon "to constantly keep the sponsor's products or services in the minds of the participants." (See the Burton patent, col. 4, lines 34-39). When a participant makes a purchase of the sponsor's goods with the credit instrument (i.e., a first transaction), the information relating to the transaction (e.g., price, product type) is forwarded to a central processing unit for processing in the rewards program. (See the Burton patent, col. 5, lines 17-25). Based on the total purchases the participant makes of the sponsor's goods/services, the participant's account balance will be reduced by a predetermined amount, as a reward for all of the purchases. (See the Burton patent, col. 13, lines 16-30). The sponsor can modify the rewards program through the incentive company to include only certain models of the sponsor's products. (See the Burton patent, col. 20, lines 3-6). Also, as the Examiner has taken note, the Burton patent discloses that participants may withhold a portion of the monetary amount used to reduce their account balance and allocate those funds for merchandise or travel under traditional incentive programs. (See 4/26/2004 Office Action, para. 3, page 4). However, the merchandise or travel available under the traditional incentive programs is only made available from the incentive company that has contracted with the sponsor to administer the incentive program. (See the Burton patent, col. 18, lines 21-25). Thus, if the purported second transaction is taking place between the consumer and the incentive company, then that is not a second merchant that is not required to be associated with the first merchant, i.e. the incentive company has contracted with the sponsor. Therefore, the Burton patent does not disclose or suggest "applying captured said transaction information to a second transaction involving said consumer at *a second merchant not required to be associated with said first merchant*," as recited in claim 1. Therefore, the Burton patent, taken alone or in combination with the Deaton patent and/or the Kepecs patent, does not render the subject matter of claim 1 obvious, and this rejection should be withdrawn.

It is respectfully submitted that claim 1 is not unpatentable over the Deaton patent in view of the Kepecs patent and the Burton patent for the reasons discussed above and that this rejection should be withdrawn. Because claims 2-12 depend from and, therefore, include all of the limitations of claim 1, it is respectfully submitted that these claims are also allowable.

The Examiner has rejected claims 13-29 under 35 U.S.C. § 103(a) as unpatentable over U.S. Pat. No. 5,459,306 to Stein et al. ("the Stein patent") in view of the Kepecs patent. (See 4/26/04 Office Action, para. 4, page 9).

The Stein patent describes a method for delivering product picks to prospective individual users. (See the Stein patent, Abstract). The method includes gathering information about the individual user's product use, which information is then used to identify potentially relevant future purchases. (See the Stein patent, col. 3, lines 1-5). The identified potential purchases are delivered to and stored by a data processing means, which the user has access to. (See the Stein patent, col. 3, lines 5-8). The method of the Stein patent is directed to a single product line from a single merchant.

The Examiner recognizes that the Stein patent does not disclose or suggest "identifying the consumer at a second merchant and applying the offer during a transaction at the second merchant," as recited in claim 22. (See 4/26/04 Office Action, para. 4, page 9). The Examiner attempts to overcome these deficiencies by stating that the Kepecs patent discloses these elements. However, as amended, claim 22 states that "the second merchant [is] not required to be associated with the first merchant." The Kepecs patent does not disclose this element, and as such, neither the Stein patent nor the Kepecs patent, alone or in combination, disclose or suggest that the second merchant is not required to be associated with the first merchant. If the Examiner were to include the Burton patent in the list of cited references for the obviousness rejection of claims 22-28, Applicant would direct the Examiner to the discussion of the Burton patent above. As noted above, the Burton patent also does not disclose that the "second merchant [is] not required to be associated with the first merchant."

It is respectfully submitted that claim 22 is not unpatentable over the Stein patent in view of the Kepecs patent for the reasons discussed above and that this rejection should be withdrawn. Because claims 23-28 depend from and, therefore, include all of the limitations of claim 22, it is respectfully submitted that these claims are also allowable.

III. CONCLUSION

In light of the foregoing, Applicant respectfully submits that all of the now pending claims are in condition for allowance. All issues raised by the Examiner having been addressed, and an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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